

**WAC 363-116-086 Challenges to board actions concerning licensing determinations and appeal procedures.** This section shall apply to all proceedings involving a board determination made pursuant to WAC 363-116-080:

(1) Pilot trainees who enter a training program as provided in this chapter shall provide the board with an address to be used for notification purposes. Such address shall be a place at which mail is delivered. In addition, a pilot trainee may provide the board with other means of contact such as telephone numbers and/or email addresses. It will be the responsibility of the pilot trainee to ensure that the board has a current mailing address at all times. The mailing address will be considered the primary means of notice by the board. Notice delivered to the address provided by the pilot trainee will be considered received by the pilot trainee for the purpose of receipt of notification of the board's decision to deny a pilot license or extend a training program as provided in subsection (2) of this section.

(2) A pilot trainee who is denied a license or continued in his or her training program, pursuant to a decision rendered under WAC 363-116-080(5), shall be notified of the board's determination, in writing, by the chair of the board as soon as practicable. The pilot trainee shall have twenty days from which notice of the decision is served to file a notice of appeal of the board's decision with the board, pursuant to WAC 10-08-110 and 10-08-211. The board's decision will become a final order upon expiration of twenty days from the date notice is served, unless notice of appeal has been filed prior to that time. Upon the filing of the notice of appeal, the chair of the board shall appoint a presiding officer, who shall conduct the hearing and issue an initial order pursuant to chapter 34.05 RCW.

(3) Any hearing conducted pursuant to a request for review as indicated in subsection (2) of this section shall be conducted pursuant to the rules set forth in chapters 10-08 and 363-11 WAC and this section. In the event of a conflict, this section shall control.

(a) The board and the trainee evaluation committee shall be required to produce no more than a total of two fact witnesses and no more than one expert witness in connection with any hearing pursuant to this section, unless the board's chair, in his or her sole discretion, believes additional witnesses are necessary to present its case. This limitation shall apply to the hearing and any prehearing discovery.

(b) The board has determined, in its discretion, that because each pilot trainee brings different skill sets to his or her training program as a result of their prior experience, and the trainee evaluation committee develops an individually tailored training program based upon that pilot trainee's skill set and prior experience; comparisons between pilot trainees' performances in their respective training program are not relevant when assessing the pilot trainee's performance which is the subject of a notice of appeal and/or petition for review hereunder. Any documentation or testimony concerning the performance of other pilot trainees in their training program shall not be considered during any proceeding involved in the review process and shall not be submitted or solicited as evidence in any hearing under this section, nor shall it be submitted or solicited as evidence in any discovery deposition, nor shall it be included in the board's record of proceedings or any petition for review.

(c) The scope of the hearing shall be limited to the validity of the training and evaluation process. The grounds for appeal shall be limited to the following issues:

(i) Does the training and evaluation process comport with accepted psychometric and industrial/organizational psychology principles and evaluation?

(ii) Is the board's training and evaluation process a valid and reliable measurement system meeting all criteria of formative and summative assessment?

(iii) Is the training program job related?

(iv) Was the board's decision made pursuant to WAC 363-116-080(5) arbitrary and capricious?

(d) The presiding officer shall issue an initial order at the conclusion of the hearing in conformance with the requirements of chapter 34.05 RCW and WAC 10-08-210.

(4) Any petition for review of the initial order shall be filed in conformance with WAC 10-08-211. The chair of the board shall then appoint a "reviewing officer" who shall issue a final order. The standard of review by the reviewing officer shall be the same as that set forth in subsection (3)(c) of this section.

[Statutory Authority: Chapter 88.16 RCW. WSR 11-20-004, § 363-116-086, filed 9/21/11, effective 10/22/11.]